

111TH CONGRESS
1ST SESSION

S. 2869

To increase loan limits for small business concerns, to provide for low interest refinancing for small business concerns, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2009

Ms. LANDRIEU (for herself and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To increase loan limits for small business concerns, to provide for low interest refinancing for small business concerns, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Job
5 Creation and Access to Capital Act of 2009”.

1 **TITLE I—NEXT STEPS FOR MAIN**
 2 **STREET CREDIT AVAILABILITY**

3 **SEC. 101. SECTION 7(a) BUSINESS LOANS.**

4 (a) AMENDMENT.—Section 7(a) of the Small Busi-
 5 ness Act (15 U.S.C. 636(a)) is amended—

6 (1) in paragraph (2)(A)—

7 (A) in clause (i), by striking “75 percent”
 8 and inserting “90 percent”; and

9 (B) in clause (ii), by striking “85 percent”
 10 and inserting “90 percent”; and

11 (2) in paragraph (3)(A), by striking
 12 “\$1,500,000 (or if the gross loan amount would ex-
 13 ceed \$2,000,000” and inserting “\$4,500,000 (or if
 14 the gross loan amount would exceed \$5,000,000”.

15 (b) PROSPECTIVE REPEAL.—Effective January 1,
 16 2011, section 7(a) of the Small Business Act (15 U.S.C.
 17 636(a)) is amended—

18 (1) in paragraph (2)(A)—

19 (A) in clause (i), by striking “90 percent”
 20 and inserting “75 percent”; and

21 (B) in clause (ii), by striking “90 percent”
 22 and inserting “85 percent”; and

23 (2) in paragraph (3)(A), by striking
 24 “\$4,500,000” and inserting “\$3,750,000”.

1 **SEC. 102. MAXIMUM LOAN AMOUNTS UNDER 504 PROGRAM.**

2 Section 502(2)(A) of the Small Business Investment
3 Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

4 (1) in clause (i), by striking “\$1,500,000” and
5 inserting “\$5,000,000”;

6 (2) in clause (ii), by striking “\$2,000,000” and
7 inserting “\$5,000,000”;

8 (3) in clause (iii), by striking “\$4,000,000” and
9 inserting “\$5,500,000”;

10 (4) in clause (iv), by striking “\$4,000,000” and
11 inserting “\$5,500,000”; and

12 (5) in clause (v), by striking “\$4,000,000” and
13 inserting “\$5,500,000”.

14 **SEC. 103. MAXIMUM LOAN LIMITS UNDER MICROLOAN PRO-**
15 **GRAM.**

16 Section 7(m) of the Small Business Act (15 U.S.C.
17 636(m)) is amended—

18 (1) in paragraph (1)(B)(iii), by striking
19 “\$35,000” and inserting “\$50,000”;

20 (2) in paragraph (3)—

21 (A) in subparagraph (C), by striking
22 “\$3,500,000” and inserting “\$5,000,000”; and

23 (B) in subparagraph (E), by striking
24 “\$35,000” each place that term appears and
25 inserting “\$50,000”; and

3 SEC. 104. TEMPORARY FEE REDUCTIONS.

8 SEC. 105. NEW MARKETS VENTURE CAPITAL COMPANY IN-
9 VESTMENT LIMITATIONS.

13 “(e) INVESTMENT LIMITATIONS.—

“(A) granted final approval by the Administrator under section 354(e) on or after March 1, 2002; and

20 “(B) that has obtained a financing from
21 the Administrator.

“(2) LIMITATION.—Except to the extent ap-
proved by the Administrator, a covered New Markets
Venture Capital company may not acquire or issue
commitments for securities under this title for any

1 single enterprise in an aggregate amount equal to
 2 more than 10 percent of the sum of—

3 “(A) the regulatory capital of the covered
 4 New Markets Venture Capital company; and

5 “(B) the total amount of leverage pro-
 6 jected in the participation agreement of the cov-
 7 ered New Markets Venture Capital.”.

8 **SEC. 106. ALTERNATIVE SIZE STANDARDS.**

9 Section 3(a) of the Small Business Act (15 U.S.C.
 10 632(a)) is amended by adding at the end the following:

11 “(5) ALTERNATIVE SIZE STANDARD.—

12 “(A) IN GENERAL.—The Administrator shall
 13 establish an alternative size standard for applicants
 14 for business loans under section 7(a) and applicants
 15 for development company loans under title V of the
 16 Small Business Investment Act of 1958 (15 U.S.C.
 17 695 et seq.), that uses maximum tangible net worth
 18 and average net income as an alternative to the use
 19 of industry standards.

20 “(B) INTERIM RULE.—Until the date on which
 21 the alternative size standard established under sub-
 22 paragraph (A) is in effect, an applicant for a busi-
 23 ness loan under section 7(a) or an applicant for a
 24 development company loan under title V of the

1 Small Business Investment Act of 1958 may be eli-
2 gible for such a loan if—

3 “(i) the maximum tangible net worth of
4 the applicant is not more than \$15,000,000;
5 and

6 “(ii) the average net income after Federal
7 income taxes (excluding any carry-over losses)
8 of the applicant for the 2 full fiscal years before
9 the date of the application is not more than
10 \$5,000,000.”.

11 **SEC. 107. SALE OF 7(a) LOANS IN SECONDARY MARKET.**

12 Section 5(g) of the Small Business Act (15 U.S.C.
13 634(g)) is amended by adding at the end the following:

14 “(6) If the amount of the guaranteed portion of any
15 loan under section 7(a) is more than \$500,000, the Ad-
16 ministrator shall, upon request of a pool assembler, divide
17 the loan guarantee into increments of \$500,000 and 1 in-
18 crement of any remaining amount less than \$500,000, in
19 order to permit the maximum amount of any loan in a
20 pool to be not more than \$500,000. Only 1 increment of
21 any loan guarantee divided under this paragraph may be
22 included in the same pool. Increments of loan guarantees
23 to different borrowers that are divided under this para-
24 graph may be included in the same pool.”.

1 **SEC. 108. ONLINE LENDING PLATFORM.**

2 It is the sense of Congress that the Administrator
3 of the Small Business Administration should establish a
4 website that—

5 (1) lists each lender that makes loans guaran-
6 teed by the Small Business Administration and pro-
7 vides information about the loan rates of each such
8 lender; and

9 (2) allows prospective borrowers to compare
10 rates on loans guaranteed by the Small Business
11 Administration.

12 **TITLE II—SMALL BUSINESS**
13 **ACCESS TO CAPITAL**

14 **SEC. 202. LOW-INTEREST REFINANCING UNDER THE LOCAL**
15 **DEVELOPMENT BUSINESS LOAN PROGRAM.**

16 (a) REFINANCING.—Section 502(7) of the Small
17 Business Investment Act of 1958 (15 U.S.C. 696(7)) is
18 amended by adding at the end the following:

19 “(C) REFINANCING NOT INVOLVING EX-
20 PANSIONS.—

21 “(i) DEFINITIONS.—In this subpara-
22 graph—

23 “(I) the term ‘borrower’ means a
24 small business concern that submits
25 an application to a development com-

pany for financing under this subparagraph;

“(II) the term ‘eligible fixed asset’ means tangible property relating to which the Administrator may provide financing under this section; and

“(III) the term ‘qualified debt’ means indebtedness—

“(aa) that—

“(AA) was incurred not less than 2 years before the date of the application for assistance under this subparagraph;

“(BB) is a commercial loan;

“(CC) is not subject to a guarantee by a Federal agency;

“(DD) the proceeds of which were used to acquire an eligible fixed asset;

1 “(EE) was incurred for
2 the benefit of the small busi-
3 ness concern; and

4 “(FF) is collateralized
5 by eligible fixed assets; and

6 “(bb) for which the borrower
7 has been current on all payments
8 for not less than 1 year before
9 the date of the application.

10 “(ii) AUTHORITY.—A project that
11 does not involve the expansion of a small
12 business concern may include the refi-
13 nancing of qualified debt if—

14 “(I) the amount of the financing
15 is not more than 80 percent of the
16 value of the collateral for the financ-
17 ing, except that, if the appraised value
18 of the eligible fixed assets serving as
19 collateral for the financing is less than
20 the amount equal to 125 percent of
21 the amount of the financing, the bor-
22 rower may provide additional cash or
23 other collateral to eliminate any defi-
24 ciency;

1 “(II) the borrower has been in
 2 operation for all of the 2-year period
 3 ending on the date of the loan; and

4 “(III) for a financing for which
 5 the Administrator determines there
 6 will be an additional cost attributable
 7 to the refinancing of the qualified
 8 debt, the borrower agrees to pay a fee
 9 in an amount equal to the anticipated
 10 additional cost.

11 “(iii) FINANCING FOR BUSINESS EX-
 12 PENSES.—

13 “(I) FINANCING FOR BUSINESS
 14 EXPENSES.—The Administrator may
 15 provide financing to a borrower that
 16 receives financing that includes a refi-
 17 nancing of qualified debt under clause
 18 (ii), in addition to the refinancing
 19 under clause (ii), to be used solely for
 20 the payment of business expenses.

21 “(II) APPLICATION FOR FINANC-
 22 ING.—An application for financing
 23 under subclause (I) shall include—

24 “(aa) a specific description
 25 of the expenses for which the ad-

ditional financing is requested;
and

“(bb) an itemization of the
amount of each expense.

“(III) CONDITION ON ADDI-
TIONAL FINANCING.—A borrower may
not use any part of the financing
under this clause for non-business
purposes.

“(iv) LOANS BASED ON JOBS.—

“(I) JOB CREATION AND RETEN-
TION GOALS.—

“(aa) IN GENERAL.—The
Administrator may provide fi-
nancing under this subparagraph
for a borrower that meets the job
creation goals under subsection
(d) or (e) of section 501.

“(bb) ALTERNATE JOB RE-
TENTION GOAL.—The Adminis-
trator may provide financing
under this subparagraph to a
borrower that does not meet the
goals described in item (aa) in an
amount that is not more than the

1 product obtained by multiplying
2 the number of employees of the
3 borrower by \$65,000.

4 “(II) NUMBER OF EMPLOYEES.—
5 For purposes of subclause (I), the
6 number of employees of a borrower is
7 equal to the sum of—

8 “(aa) the number of full-
9 time employees of the borrower
10 on the date on which the bor-
11 rower applies for a loan under
12 this subparagraph; and

13 “(bb) the product obtained
14 by multiplying—

15 “(AA) the number of
16 part-time employees of the
17 borrower on the date on
18 which the borrower applies
19 for a loan under this sub-
20 paragraph; by

21 “(BB) the quotient ob-
22 tained by dividing the aver-
23 age number of hours each
24 part time employee of the

1 borrower works each week
2 by 40.

3 “(v) NONDELEGATION.—Notwith-
4 standing section 508(e), the Administrator
5 may not permit a premier certified lender
6 to approve or disapprove an application for
7 assistance under this subparagraph.

8 “(vi) TOTAL AMOUNT OF LOANS.—
9 The Administrator may provide not more
10 than a total of \$4,000,000,000 of financ-
11 ing under this subparagraph for each fiscal
12 year.”.

13 (b) PROSPECTIVE REPEAL.—Effective 2 years after
14 the date of enactment of this Act, section 502(7) of the
15 Small Business Investment Act of 1958 (15 U.S.C.
16 696(7)) is amended by striking subparagraph (C).

17 (c) TECHNICAL CORRECTION.—Section 502(2)(A)(i)
18 of the Small Business Investment Act of 1958 (15 U.S.C.
19 696(2)(A)(i)) is amended by striking “subparagraph (B)
20 or (C)” and inserting “clause (ii), (iii), (iv), or (v)”.

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